

§ 263.56

will not apply to proceedings conducted under this section.

§ 263.56 Initial Licensing Proceedings.

Proceedings with respect to applications for initial licenses shall include, but not be limited to, applications for Board approval under section 3 of the BHC Act and such proceedings as may be ordered by the Board with respect to applications under section 18(c) of the FDIA. In such initial licensing proceedings, the procedures set forth in subpart A of this part shall apply, except that the Board may designate a Board Counsel to represent the Board in a nonadversary capacity for the purpose of developing for the record information relevant to the issues to be determined by the Presiding Officer and the Board. In such proceedings, Board Counsel shall be considered to be a decisional employee for purposes of §§ 263.9 and 263.40 of subpart A.

Subpart C—Rules and Procedures for Assessment and Collection of Civil Money Penalties

§ 263.60 Scope.

The Uniform Rules set forth in subpart A of this part shall govern the procedures for assessment of civil money penalties, except as otherwise provided in this subpart.

§ 263.61 Opportunity for informal proceeding.

In the sole discretion of the Board's General Counsel, the General Counsel may, prior to the issuance by the Board of a notice of assessment of civil penalty, advise the affected person that the issuance of a notice of assessment of civil penalty is being considered and the reasons and authority for the proposed assessment. The General Counsel may provide the person an opportunity to present written materials or request a conference with members of the Board's staff to show that the penalty should not be assessed or, if assessed, should be reduced in amount.

§ 263.62 Relevant considerations for assessment of civil penalty.

In determining the amount of the penalty to be assessed, the Board shall take into account the appropriateness

12 CFR Ch. II (1–1–05 Edition)

of the penalty with respect to the financial resources and good faith of the person charged, the gravity of the misconduct, the history of previous misconduct, the economic benefit derived by the person from the misconduct, and such other matters as justice may require.

§ 263.63 Assessment order.

(a) In the event of consent to an assessment by the person concerned, or if, upon the record made at an administrative hearing, the Board finds that the grounds for having assessed the penalty have been established, the Board may issue a final order of assessment of civil penalty. In its final order, the Board may modify the amount of the penalty specified in the notice of assessment.

(b) An assessment order is effective immediately upon issuance, or upon such other date as may be specified therein, and shall remain effective and enforceable until it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

§ 263.64 Payment of civil penalty.

(a) The date designated in the notice of assessment for payment of the civil penalty will normally be 60 days from the issuance of the notice. If, however, the Board finds in a specific case that the purposes of the authorizing statute would be better served if the 60-day period is changed, the Board may shorten or lengthen the period or make the civil penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of civil penalty is filed, payment of the penalty shall not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil penalty should be paid or collected.

(b) Checks in payment of civil penalties should be made payable to the "Board of Governors of the Federal Reserve System." Upon collection, the Board shall forward the amount of the penalty to the Treasury of the United States.